Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 97-11
Implementation of Section 402(b)(A)	)	
of the Telecommunications Act of 1996	)	

INITIAL COMMENTS OF AMERITECH

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SUMMARY

Ameritech applauds the Commission for initiating this proceeding and making proposals which, at least in the aggregate, suggest a willingness to eliminate or reduce the archaic regulatory burdens associated with the traditional application of Section 214 regulatory requirements. Ameritech believes that the Commission can best promote the "pro-competitive, de-regulatory national policy" underlying TA96 by incorporating the following points in its rules: any "extension" of lines is exempt from Section 214; any increase in the capabilities of a carrier's existing network is an improvement and beyond the scope of Section 214; the Commission should forbear from exercising its Section 214 authority with respect to "new" lines of a price cap carrier; streamlined Section 214 procedures should apply to domestic dominant carriers to the extent Section 214 applies at all; Section 214 reporting requirements should be eliminated; competing carriers should be subject to the same Section 214 requirements for the discontinuance or reduction of service; and the technical amendment proposed for 47 CFR 63.01 is not necessary.

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The Ameritech Operating Companies[1] (most often referred to herein as "Ameritech") respectfully offer the following initial comments on the Notice of Proposed Rulemaking released in the above captioned docket on January 13, 1997 ("NPRM").

[1] The Ameritech Operating Companies are: Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, and Wisconsin Bell, Inc.

I.

INTRODUCTION

Section 214 of the Communications Act generally provides, *inter alia*, that a common carrier may not construct a new line nor extend any line without first obtaining a certificate of public convenience and necessity from the Commission.[2] Section 214 was enacted "to prevent useless duplication of facilities that could result in increased rates being imposed on captive telephone ratepayers."[3]

The Telecommunications Act of 1996 Act[4] amended the requirements of Section 214. Specifically, Section 402(b)(2)(A) states: "[t]he Commission shall permit any common carrier -- (A) to be exempt from the requirements of Section 214 of the Communications Act of 1934 for the extension of any line ... ." The Commission proposes in the NPRM that the phrase "extension of any line" should be interpreted as "a line that allows the carrier to expand its service into a geographic territory that it is eligible to serve, but that its network does not currently reach."[5] This proposal,

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[2] 47 U.S.C. Section 214.

[3] NPRM at par. 1 referring to 78 *Cong. Rec.* 10314 (1934)(Remarks of Rep. Rayburn).

[4] Pub. L. No. 104-104, 110 Stat. 56 (1996)("TA96"); 47 U.S.C. Section 402(b)(2)(A).

[5] NPRM at pars. 3, 21.

standing alone, would keep the Commission in the Section 214 approval business much more than necessary in the post-TA96 environment.

However, the Commission also invites comment on the extent to which it should exercise its remaining Section 214 authority in light of the forbearance provisions of TA96.[6] Those provisions generally require[7] the Commission to forbear from applying any of its regulation or any provision of the Act if the Commission determines that enforcement is not necessary to ensure reasonable rates or to protect consumers, and is otherwise in the public interest -- including the interest of promoting competition.[8] To that end, the Commission proposes to forbear from exercising Section 214 authority over "'new' lines with respect to local exchange carriers ('LECs') subject to price cap regulation," average schedule LECs, and non-dominant domestic carriers.[9] Under the Commission's proposal, the construction of "new" lines would include any augmentation of existing facilities which increases the number of channels of communication.[10]

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[6] 47 U.S.C. Section 160.

[7] Except for a few circumstances not relevant here. *See* 47 U.S.C. Section 160(d).

[8] 47 U.S.C. Section 160(a) and (b).

[9] NPRM at par. 3.

[10] NPRM at par. 21.

Thus, for price cap carriers like the Ameritech Operating Companies, the construction provisions of Section 214 no longer will apply under the Commission's proposals because Section 402(b)(2)(A) of TA96 exempts "extensions of lines" and the Commission will forbear from exercising Section 214 authority with respect to "new" lines.

The Commission proposes additional reforms, as well. The Commission proposes to grant Section 214 blanket authority for small projects to construct new lines, *i.e.* projects having a total annual cost of no more than $12M, an annual rental of no more than $3M or which increase the total book value of the carrier's lines by no more than 10%. And, in those remaining instances where Section 214 would continue to apply (*i.e.* domestic dominant carriers constructing new lines as part of large project), the Commission proposes a streamlined procedure for obtaining the necessary certificate of public convenience and necessity. Finally, the Commission proposes that the streamlined discontinuance procedures set forth in Section 63.71 of its rules (which currently apply to domestic non-dominant carriers) be extended to all domestic common carriers, although the Commission also proposes that domestic dominant carriers should be required to provide a 60 day notice of discontinuance.

Ameritech applauds the Commission for initiating this proceeding and making proposals which, at least in the aggregate, suggest a willingness to eliminate or reduce the archaic regulatory burdens associated with the traditional application of Section 214 regulatory requirements. As the Commission correctly notes, Congress enacted Section 214 "to prevent useless duplication of facilities that could result in increased rates being imposed on captive telephone ratepayers."[11] However, given the "pro-competitive, de-regulatory national policy" framework underlying TA96, ratepayers no longer are captive and the market is to be relied upon "to prevent the useless duplication of facilities." Moreover, price cap regulation has virtually eliminated the historical relationship between a carrier's investment and the rates it charges for its services. If, notwithstanding this fundamental change, Section 214 regulations continue to apply in the future as they have been applied in the past, Section 214 will become the vehicle of choice for those who simply want to delay market entry of would-be competitors. Thus, there is compelling justification for a complete reassessment of the traditional application of the Section 214 regulatory requirements. As it undertakes that reassessment, Ameritech asks the Commission to consider the following points.

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[11] *See* footnote 3 *supra*.

II.

FOR PURPOSES OF THE STATUTORY EXEMPTION CONTAINED IN SECTION 402(b)(2)(A), THE PHRASE "EXTENSION OF ANY LINE" SHOULD INCLUDE ANY EXTENSION, NOT SIMPLY THOSE EXTENSIONS WHICH ALLOW A CARRIER TO EXPAND ITS SERVICE INTO GEOGRAPHIC TERRITORY THAT IT IS ELIGIBLE TO SERVE, BUT THAT ITS NETWORK DOES NOT CURRENTLY REACH.

The Commission proposes to define the phrase "extension of any line" to mean "a line that allows the carrier to expand its service into geographic territory that it is eligible to serve, but that its network does not currently reach."[12] Although this proposed definition does not limit the term "geographic territory" in any way, the text of the NPRM says that this proposed definition "would encourage carriers to expand their service areas into territory served by other carriers."[13] This explanation could leave the implication that the phrase "extension of any line" in Section 214 may mean one thing when a line is extended into another carrier's service territory, but mean another thing when a line is extended within a carrier's current service territory to a point beyond its existing network. Indeed, the Commission says that under its proposed definition of "extension of any line," "the Commission would retain jurisdiction over the construction of

[12] NPRM at Appendix A, Proposed Rules at par. 2, proposal for new Section 63.01(a).

[13] NPRM at par. 23 (emphasis added).

most in-region facilities."[14] An "in-region/out-of-region" distinction of this type would not be reasonable.

In its attempt to establish a more specific meaning to the words "extension" and "new" for purposes of implementing Section 214 and the Section 402(b)(2)(A) exemption to Section 214, the Commission looks to three sources: (1) the dictionary meaning of those two words, (2) legislative intent, and (3) Commission and court interpretations of Section 214 together with the parallel section in the Interstate Commerce Act from which Section 214 was derived. There is nothing about these three reference points which suggests that "extension of lines" should be limited only to those extensions which permit a carrier to extend the geographic reach of its existing network into the service territory of another carrier.

Regarding the dictionary definition, the Commission correctly notes that "[t]he verb 'extend' means 'to expand the area or scope of' or 'to increase the influence of.'"[15] However, this definition does not imply that the only way a carrier could extend its lines is to expand its network into an

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[14] NPRM at par. 24. The term "in-region" is used in the NPRM "to denote lines: (1) with respect to a BOC, within any in-region state, as defined in Section 271(i)(1), or within any other area where the BOC is offering local, exchange or long-distance services ... ." NPRM at fn. 27.

[15] NPRM at par. 7, *quoting Webster's II New Riverside University Dictionary*, Riverside Publishing Co., at 456 (1994).

area served by another carrier. Consider, for example, the case where a carrier runs a line to serve a new sub-division that is surrounded by other sub-divisions to which the carrier already provides service. In this case, the new sub-division is within the carrier's area of service and, therefore, might not be regarded as "new territory." Yet, to most observers, the line run to this new subdivision would constitute an "extension" of the carrier's existing network. The Commission recognizes the anomalous results that would be produced under its proposed interpretation because a domestic carrier with a nationwide network "would not be permitted, under our proposed definition, to extend its lines without obtaining Section 214 approval" but domestic carriers which do not have a nationwide network still have "new" territory to which they can "extend" their network without Section 214 approval.[16] The underscored portion of this quote suggests that even the Commission recognizes that a carrier with a nationwide network can "extend" its lines.[17]

The Commission can avoid the potential for this type of semantical anomaly by simply defining an "extension of any line" as an expansion of a

[16] NPRM at par. 26 (emphasis added). Under the Commission's proposal, a carrier is exempt from Section 214 requirements when it extends its network into "new territory," but once there, it must rely on the Commission's continued forbearance from Section 214 regulation with respect to any further extensions of that in-region network.

[17] *But see* NPRM at par. 27 ("Under our tentative definition, once a carrier has expanded into new territory by 'extending' its lines, additional activities within that territory seemingly would create 'new' lines.).

carrier's existing network.[18] This interpretation would ensure that Section 214 does not become a barrier to entry into new telecommunications markets that a carrier currently does not serve, but also would ensure that Section 214 does not become a regulatory hurdle for a carrier seeking to expand its network in any other area it currently does serve.[19]

There is nothing in the legislative history of Section 214 or Section 402(b)(2)(A) to justify any "in-region/out-of-region" distinction in the way in which the "extensions of any line" provision of Section 214 is applied (or, more accurately stated, not applied). As the Commission notes, the original legislative intent of Section 214 was "to prevent useless duplication of facilities that could result in increased rates being imposed on captive telephone ratepayers."[20] That original intent, although no longer relevant today given the advent of price cap regulation, would otherwise be equally relevant to in-region and out-of-region extensions. Section 402(b)(2)(A), on the other hand, is part of a comprehensive re-write of the Communications Act that was intended "to establish a pro-competitive, de-regulatory national policy framework for the United States telecommunications

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[18] *See* NPRM at par. 35 (ii).

[19] Admittedly, the potential for this kind of hurdle is reduced as long as the Commission continues to forbear from applying its Section 214 regulatory requirements with respect to "new" lines.

[20] NPRM at par. 1.

industry."[21] Given this legislative intent, the Commission should construe the exemption embodied in Section 402(b)(2)(A) as broadly as possible.

Past precedent does not compel a contrary conclusion. The Commission did adopt a "new territory" construction in the late 1930s[22] but, as the Commission acknowledges, subsequent decisions clouded that earlier construction.[23] And as the Commission also acknowledges, prior orders in the international context have not been entirely consistent either.[24]

Therefore, in the absence of a compelling public policy reason to conclude otherwise, the Commission should construe the phrase "extension of any line" in Section 214 to include any expansion of a carrier's existing network.

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[21] NPRM at par. 2.

[22] NPRM at par. 11.

[23] NPRM at par. 12.

[24] NPRM at par. 13.

III.

PROJECTS THAT INCREASE THE CAPABILITIES OF A CARRIER'S EXISTING NETWORK SHOULD NOT BE CONSIDERED "NEW LINES" BUT SHOULD BE REGARDED AS IMPROVEMENTS WHICH ARE OUTSIDE THE SCOPE OF SECTION 214 OR, ALTERNATIVELY, SHOULD BE REGARDED AS AN "EXTENSION" WHICH NOW IS EXEMPT UNDER SECTION 214.

Prior to 1943, the Commission did not require a carrier to obtain Section 214 authority to create new channels of communication by increasing the capabilities of its existing network. However, after Congress amended Section 214 in 1943 to include "any channel of communication" within the definition of a line,[25] the Commission began requiring Section 214 authority whenever a common carrier derived additional channels of communications from its existing facilities.[26] However, the Commission's decisions on this requirement did not make it clear whether such increases to network capacity constituted "new" lines or "extensions." In the NPRM, the Commission proposes that they be regarded as "new" lines.[27]

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[25] 57 Stat. 11 (1943); NPRM at par. 16; fn. 29.

[26] Even then, however, the application of Section 214 was not entirely consistent because the Commission did not assert Section 214 jurisdiction over international channels of communication which were created by increasing the capacity of existing facilities. NPRM at par. 20. It was not until 1964 that the Commission asserted Section 214 jurisdiction over such international improvements, and it did so based largely on policy grounds. *Id.* Those policy grounds are no longer applicable given the "pro-competitive, de-regulatory national policy" underlying TA96.

[27] NPRM at par. 21.

Ameritech disagrees and suggests that if a common carrier increases the capacity of its network and thereby creates additional channels of communication, that increase should be treated as an improvement and beyond the scope of Section 214 altogether. This approach would be consistent with how the Surface Transportation Board has interpreted the parallel section of the Interstate Commerce Act.[28] It also would be consistent with the "pro-competitive, de-regulatory national policy" underlying TA96.

If the Commission does not conclude that increasing the capacity of an existing network is an improvement and outside the scope of Section 214, then it should regard such increases as "extensions" of a line which are exempt from Section 214 requirements by reason of Section 402(b)(2)(A). This approach is an alternative way of promoting the "pro-competitive, de-regulatory national policy" underlying TA96.

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[28] NPRM at fn. 28, *citing* 49 U.S.C. Section 10901; *City of Detroit v. Canadian Nat'l Ry. Co.*, 9 I.C.C.2d 1208, 1218-19 (1993), *aff'd sub. nom. Detroit/Wayne County Port Auth. v. I.C.C.*, 59 F.3d 1314 (D.C. Cir. 1995)(Expanding single-track railroad lines to double-track lines by building a new track parallel to the existing track "is an improvement to an existing rail line. It is neither an extension of the line nor a construction of an additional one.).

IV.

THE COMMISSION SHOULD FORBEAR FROM EXERCISING ITS SECTION 214 AUTHORITY FOR "NEW" LINES OF LECs SUBJECT TO PRICE CAP REGULATION.

As discussed above, Ameritech believes that the Commission should define an "extension of any line" as an expansion of a carrier's existing network, including increases to the capacity of that network. This interpretation would give the most complete effect to the exemption provisions of Section 402(b)(2)(A) in accordance with the "pro-competitive, de-regulatory national policy" underlying TA96.

However, if the Commission decides to limit "extensions" in the manner proposed in the NPRM, then -- pursuant to new Section 10 of the Communications Act[29] -- the Commission also should forbear from exercising its Section 214 authority with respect to "new" lines, at least for price cap carriers.[30] Such forbearance meets each of the three criteria of Section 10(a) and will promote competitive market conditions and enhance competition among providers of telecommunications services as envisioned by Section 10(b).

[29] 47 U.S.C. Section 160; Section 401 of TA96.

[30] And for the reasons set forth in the NPRM, the same treatment should be accorded to average schedule companies, as well as non-dominant domestic carriers whether they are offering local or long distance services.

It is clear under the first criterion of Section 10 that enforcement of Section 214 regulation for "new" lines of a price cap carrier is not necessary to ensure that the carrier's charges, practices, and classifications are just and not unreasonably discriminatory. The fact is that price cap regulation has effectively eliminated the connection between investment and prices. As the Commission notes: "[b]y capping prices rather than carrier profits, price cap regulation discourages over investment in facilities and encourages carriers to lower costs and increase productivity."[31] Moreover, as the Commission further notes, the Section 214 process is not designed to prevent anticompetitive or discriminatory practices.[32] Thus, Section 214 is not needed to ensure that a price cap carrier's charges, practices and classifications remain just and non-discriminatory.

Forbearance is justified under the second prong of Section 10 as well because Section 214 regulation is not necessary to protect customers. Section 214 is not needed to ensure that a price cap carrier's rates are reasonable since, as discussed above, price cap regulation severs the relationship between investment and rates. Moreover, forbearance from Section 214 regulation also will reduce regulatory cost and delay when a carrier seeks to introduce new services. Thus, Section 214 regulation is not

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[31] NPRM at par. 40.

[32] NPRM at par. 45. Other rules of the Commission address those issues.

necessary to protect customers; in fact, forbearance will promote a price cap carrier's ability to satisfy customer demand more efficiently.

Forbearance from Section 214 regulation also satisfies the public interest portion of Section 10's three-part criteria. The Section 214 process is expensive, time-consuming and often requires a carrier to disclose sensitive information that may adversely affect the carrier's ability to compete. Thus, by forbearing from Section 214 regulation, the Commission can promote competitive market conditions (*see* Section 10(b)), by ensuring that the Section 214 process is not used to simply impede a competitor.

V.

THE COMMISSION SHOULD ADOPT A STREAMLINED SECTION 214 PROCEDURE FOR DOMESTIC DOMINANT CARRIERS WHICH REMAIN SUBJECT TO RATE-OF-RETURN REGULATION.

To the extent the Commission continues to apply Section 214 regulation at all, it should adopt a streamlined procedure for Section 214 compliance. The Ameritech Operating Companies will not be affected by the Commission's streamlining proposal because none of them are subject to rate-of-return regulation; therefore, Ameritech will not offer comments on the specific proposals the Commission has made in the NPRM to streamline the Section 214 process. Suffice it to say that to the extent the

Commission continues to apply Section 214 regulations at all, it should streamline the application process so that a carrier is required to do no more than is absolutely necessary for the Commission to satisfy itself that the original intent behind Section 214 is enforced, *i.e.* that captive telephone ratepayers will not be required to pay for useless duplication of facilities.

VI.

THE COMMISSION SHOULD ELIMINATE SECTION 214 REPORTING REQUIREMENTS.

If the Commission forbears from applying Section 214 with respect to the certain carriers, the Commission also proposes to eliminate the Section 214 reporting requirements under the Commission's rules.[33] This makes good sense. The Commission acknowledges that neither the public nor the Commission staff has made significant use of the information contained in these reports. If a need for this information arises in the future, the Commission can rely on other sections of the Communications Act to obtain it. Therefore, the Commission should eliminate the Section 214 reporting requirements from its rules.

[33] 47 CFR Sections 63.03(e) and 63.04(c).

VII.

COMPETING CARRIERS SHOULD BE SUBJECT TO THE SAME SECTION 214 REQUIREMENTS WITH RESPECT TO DISCONTINUANCE OF SERVICE.

Section 214 contains requirements which have to do not only with the construction and operation of "extensions" and "new" lines, but with the discontinuance and reduction of service, as well. These requirements on discontinuance of service are unaffected by the enactment of Section 402(b)(2)(A). Today, streamlined discontinuance procedures apply to domestic non-dominant carriers.[34] The Commission recognizes that exit barriers could make carriers reluctant to enter a market in the first place and, therefore, the Commission proposes in the NPRM to extend these streamlined discontinuance procedures to domestic dominant carriers. However, the Commission also proposes that dominant domestic carriers should be required to give 60 days notice prior to any such discontinuance or reduction in service.[35]

Ameritech believes that all competing carriers generally should be subject to the same regulatory obligations and this general rule should apply with respect to the procedures under Section 214 to discontinue or

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[34] 47 CFR Section 63.71.

[35] NPRM at pars. 70-71.

reduce service. Asymmetrical regulation creates competitive advantages to those carriers with lesser obligations. This kind of regulatory handicapping of only some providers skews the competitive marketplace and is contrary to the "pro-competitive, de-regulatory national policy" underlying TA96. Therefore, Ameritech agrees that the Commission's streamlined Section 214 process for discontinuance or reduction of service should be available to both dominant and non-dominant carriers. And, for the same reasons, the Commission should not impose different notice requirements on dominant and non-dominant carriers which utilize that streamlined process.

VIII.

THE TECHNICAL AMENDMENT PROPOSED FOR 47 CFR SECTION 63.01(b) IS UNNECESSARY.

At the very end of the NPRM in paragraph 73, under a section entitled "Technical Amendments to 47 C.F.R. Part 63", the Commission says as follows:

> The 1996 Act also provides that 'a common carrier shall not be required to obtain a certificate under [S]ection 214 with respect to the establishment or operation of a system for the delivery of video programming.'[36] Accordingly, we propose an amendment to our rules, in the form of a new Section 63.01(b), to conform to this statutory mandate.

[36] "Section 651(c) of the Cable Communications Policy Act of 1984, added by Section 302(a) of the 1996 Act, codified at 47 U.S.C. Section 571(c)."

This proposal is unnecessary.

Last year, less than one month after TA96 was enacted, the Commission entered a Report and Order[37] in which, *inter alia*, it:

> ... (4) modifi[ed] [the Commission's] rules to the extent they relate to **any** requirement that a common carrier obtain a Section 214 certificate in order to establish or operate a system for the delivery of video programming. The elimination and modification of these rules were effective upon enactment of the 1996 Act, and in this Report and Order we amend these rules to conform to those statutory changes.[38]

Later in the text of last year's Report and Order, the Commission reiterated:

> in order to conform our rules to new section 651(c) of the Communications Act, we modify our rules to the extent they related to **any** requirement that a common carrier obtain a certificate under Section 214 to establish or operate a video programming delivery system. Pursuant to subsection 651(c), we will no longer require that a common carrier obtain Section 214 authority to establish or operate a video programming delivery system, even a video programming delivery system provided on a common carrier basis pursuant to Title II of the Communications Act.[39]

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[37] In the Matter of Implementation of Section 302 of the Telecommunications Act of 1996, Open Video Systems; CS Docket No. 96-46; In the Matter of Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54-63.58, CC Docket No. 87-266 (Terminated), Report and Order and Notice of Proposed Rulemaking, *rel.* March 11, 1996.

[38] *Id.* at par. 8 (emphasis added).

[39] *Id.* at par. 76 (emphasis added).

The rules which the Commission adopted pursuant to this language in the text of the Report and Order were attached as Appendix B.

Although Appendix B contained various changes to Part 63 of the Commission's rules and regulations, no change was made in Section 63.01. In other words, even though the Commission's stated intention was to modify its rules to eliminate any requirement relating to the applicability of Section 214 to a carrier's video system and thereby conform its rules to the statutory directive of TA96 Section 651(c),[40] the Commission did not deem it necessary last year to make any changes to Section 63.01 of its rules and regulations.

The Commission did not change Section 63.01 because no change was required. The courts had already determined that "[i]n order to regulate an activity under title II of the Communications Act [including Section 214], the Commission must first determine whether the service is being offered on a common carrier basis."[41] And the Commission already had determined

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[40] NPRM at pars. 76, 88 and 91.

[41] Southwestern Bell Telephone Co. v. F.C.C., 19 F.3d 1475, 1484 (D.C. Cir. 1994); *see also* National Ass'n of Regulatory Utility Com'rs v. F.C.C., 525 F.2d 630, 644 (D.C. Cir. 1976)("A particular system is a common carrier by virtue of its functions ... ."); National Ass'n of Regulatory Utility Com'rs v. F.C.C., 533 F.2d 601, 608 (D.C. Cir. 1976)("Since it is clearly possible for a given entity to carry on many types of activities, it is at least logical to conclude that one can be a common carrier with regard to some activities but not others.").

that "Section 214 only pertains to the activities of common carriers [and] [t]he provision of cable television service is not a common carrier activity."[42] Because Section 63.01 of the Commission's rules, like Section 214 of the Communications Act, applies only to common carrier activity and because a cable television system is not a common carrier activity, it was not necessary last year for the Commission to amend Section 63.01 to conform to Section 651(c); the courts and the Commission had made it clear that Section 63.01 never applied to cable systems in the first place.

Since the Commission already has modified the rules in Part 63 "to the extent they related to any requirement that a common carrier obtain a certificate under Section 214 to establish or operate a video programming delivery system," the technical amendment proposed in this NPRM for Section 63.01 of the Commission's rules is unnecessary.

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[42] In the Matter of Blanket Section 214 Authorization for Provision by a Telephone Common Carrier of Lines for its Cable Television and other Non-Common Carrier Services Outside its Telephone Service Area, CC Docket No. 84-28, Notice of Proposed Rulemaking, *rel.* Jan. 19, 1984 at par. 1.

IX.

CONCLUSION

The Commission has made some serious proposals in the NPRM to eliminate or, at a minimum, reduce the archaic regulatory burdens associated with the traditional application of Section 214 requirements in the new, post-TA96 environment. As it considers which of these proposals to adopt, the Commission should seek to give the fullest effect to the "pro-competitive, de-regulatory national policy" underlying TA96.

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